

Christopher L. Kearney, 6/20/2007

<p>1 Road shop?</p> <p>2 A. They -- well, actually, it was</p> <p>3 the same -- the same time. I just didn't</p> <p>4 want mail going to Red Bank Road with nobody</p> <p>5 there or UPS deliveries made to a shop as</p> <p>6 most of the time no one was there, so</p> <p>7 simultaneously.</p> <p>8 Q. What time -- at what point in</p> <p>9 time did the Red Bank Road shop close?</p> <p>10 A. In October of 2000.</p> <p>11 Q. And what was the reason for it</p> <p>12 closing in October 2000?</p> <p>13 A. I got a letter, I believe, and</p> <p>14 it's -- I remember this because it's -- it's</p> <p>15 a important letter as far as I'm concerned as</p> <p>16 far as my future, October 2nd of 2000 from</p> <p>17 Mr. Hughes of DMS telling me that I hadn't</p> <p>18 met my obligations and there was some</p> <p>19 suspected fraud or -- on my tax returns and</p> <p>20 that I was only going to get one more check</p> <p>21 after nine years -- maybe not nine years --</p> <p>22 eight -- seven, eight -- if I didn't give</p> <p>23 them a laundry list of financial documents,</p> <p>24 medical documents. It was a big surprise.</p>	<p>Page 13</p> <p>1 MR. ROBERTS: Objection. Asked</p> <p>2 and answered May 10, 2004 deposition over the</p> <p>3 course of approximately 20 pages of</p> <p>4 deposition testimony. Go ahead.</p> <p>5 MR. MEAGHER: Objection is just</p> <p>6 asked and answered, counselor. You're</p> <p>7 wasting time.</p> <p>8 MR. ROBERTS: I'll state my</p> <p>9 objection as I wish, Your Honor.</p> <p>10 MR. MEAGHER: Go ahead and</p> <p>11 answer, please.</p> <p>12 A. The business was building</p> <p>13 machines and designing, some consultation</p> <p>14 work.</p> <p>15 Q. At the time you closed the Red</p> <p>16 Bank shop, did you have a contract with any</p> <p>17 clients to build machines?</p> <p>18 MR. ROBERTS: Objection. Asked</p> <p>19 and answered May 10, 2004 deposition. Go</p> <p>20 ahead.</p> <p>21 A. Yes, I did.</p> <p>22 Q. With what companies?</p> <p>23 MR. ROBERTS: Objection. Asked</p> <p>24 and answered May 10, 2004. Go ahead. Chris,</p>
<p>1 Big surprise.</p> <p>2 Q. And how do you relate that to</p> <p>3 the Red Bank Shop closing?</p> <p>4 A. I decided at that time that</p> <p>5 since I was getting one more check, unless I</p> <p>6 did all these things, that I needed to go</p> <p>7 somewhere where I was living basically hand</p> <p>8 to mouth. I moved to -- decided to move to</p> <p>9 Wooster where my mother is and where a couple</p> <p>10 brothers are so that I had an apartment so</p> <p>11 that I could live less expensively.</p> <p>12 Q. So without the disability check</p> <p>13 you could not afford to keep the Red Bank</p> <p>14 shop open after October 2000?</p> <p>15 A. That's correct.</p> <p>16 Q. What was the business of Kenwood</p> <p>17 Technologies in October 2000?</p> <p>18 MR. ROBERTS: Objection. Asked</p> <p>19 and answered May 10, 2004. Go ahead.</p> <p>20 Q. Go ahead and answer.</p> <p>21 A. Could you repeat the question?</p> <p>22 Q. Yes. What was the business of</p> <p>23 Kenwood Technologies at the time the Red Bank</p> <p>24 shop closed in October 2000?</p>	<p>Page 14</p> <p>1 you need to let me to finish speaking my</p> <p>2 objections. She can take us both at the same</p> <p>3 time.</p> <p>4 A. Okay. I can't remember. I'm</p> <p>5 sorry.</p> <p>6 Q. What kind of machines were you</p> <p>7 manufacturing or did you have contracts to</p> <p>8 manufacture in October 2000?</p> <p>9 MR. ROBERTS: Objection. Asked</p> <p>10 and answered. Go ahead.</p> <p>11 A. They were parts feeding systems.</p> <p>12 Q. Where are the business records</p> <p>13 of Kenwood Technologies?</p> <p>14 A. That's what I would like to</p> <p>15 know. You haven't provided the business</p> <p>16 records. I provided a stack of two, three</p> <p>17 thousand pages.</p> <p>18 MR. ROBERTS: Answer the</p> <p>19 question.</p> <p>20 A. We've been asking for five</p> <p>21 years.</p> <p>22 MR. ROBERTS: Answer the</p> <p>23 question.</p> <p>24 A. They're in your possession.</p>

4 (Pages 13 to 16)

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1 They're in my possession too.
 2 Q. I'm sorry. They're in your
 3 possession too? I don't understand.
 4 A. I made a copy in case we had to
 5 go to court.

6 Q. Okay. So you have a copy of
 7 Kenwood Technology's business records?
 8 A. Yes. And so do you.
 9 Q. That's why I'm asking you
 10 questions here at a deposition.

11 A. Okay. I'm answering.

12 Q. Were there any contracts you
 13 were unable to fulfill because you closed the
 14 shop in October 2000?

15 MR. ROBERTS: Objection. Asked
 16 and answered. Go ahead.

17 A. I don't recall.

18 Q. So as you sit here today you
 19 don't know of any contracts that Kenwood
 20 Technologies was unable to complete because
 21 of the closure of the Red Bank shop, is that
 22 correct?

23 MR. ROBERTS: Objection. Asked
 24 and answered May 10th, 2004. Asked and

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1 Q. Can you identify any contracts
 2 that Kenwood Technologies was unable to
 3 fulfill due to the closure of the Red Bank
 4 shop?

5 MR. ROBERTS: Objection. Asked
 6 and answered May 2004. Asked and answered --

7 A. I can't remember --

8 MR. ROBERTS: -- June 20, 2007.

9 A. -- or recall any.

10 MR. ROBERTS: Chris --

11 DEPONENT: Oh, I'm sorry.

12 MR. ROBERTS: -- she can't take
 13 down both of us at the same time.

14 DEPONENT: Okay.

15 MR. ROBERTS: You need for me to
 16 finish.

17 DEPONENT: Okay.

18 MR. MEAGHER: And your answer,
 19 sir, please?

20 MR. ROBERTS: Objection. Asked
 21 and answered May 2004. Asked and answered
 22 June 2007. Go ahead.

23 A. I don't recall.

24 Q. Who were the employees of

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1 answered June 20th, 2007. Go ahead.
 2 A. I had a lot of things I was
 3 working on. I had a lot of outstanding
 4 quotes to follow up on and I had a machine
 5 built that was special. Was going to take it
 6 to a trade show in October in Dayton --
 7 Dayton, Ohio. I paid \$800 to the exhibition
 8 hall and once I talked to Robert Mills and he
 9 said he doesn't know if they're going to send
 10 me anymore checks I just -- I folded up. I
 11 mean, I just decided right then not to take
 12 that machine to the show because I was too
 13 bummed out and I didn't want to spend anymore
 14 money on hotel, traveling, putting it up
 15 there, but I had already paid the \$800 fee to
 16 show this particular machine which was new.

17 MR. MEAGHER: Would you read
 18 back my question, please?

19 (Record read by Reporter.)

20 A. No, I completed --

21 MR. ROBERTS: Chris, he just
 22 asked the question to be read back, he didn't
 23 ask you another question.

24 DEPONENT: Oh, I'm sorry.

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1 Kenwood Technologies at the time you closed
 2 the Red Bank shop?

3 MR. ROBERTS: Objection. Asked
 4 and answered.

5 A. One employee was my brother,
 6 John Kearney.

7 Q. Any others?

8 MR. ROBERTS: Objection. Asked
 9 and answered.

10 A. A man named Don Dayton.

11 Actually -- yeah, Dayton. They were
 12 employees.

13 Q. Any others at the time you
 14 closed the Red Bank shop?

15 MR. ROBERTS: Objection.

16 A. No.

17 Q. Did Mr. Dayton pass away at some
 18 point in time?

19 MR. ROBERTS: Objection. Asked
 20 and answered.

21 A. Yes.

22 MR. MEAGHER: Certainly that
 23 wasn't asked.

24 MR. ROBERTS: Yes, it was.

5 (Pages 17 to 20)

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<p>1 Red Bank shop.</p> <p>2 A. Don's title -- Don was the --</p> <p>3 was an engineer -- electrical engineer and he</p> <p>4 didn't really have a title, I mean.</p> <p>5 Q. He just did the electrical</p> <p>6 engineering work?</p> <p>7 A. Yes.</p> <p>8 Q. What was his -- what were his</p> <p>9 hours on a weekly basis with Kenwood</p> <p>10 Technologies in 2000 before the shop closed?</p> <p>11 A. They were -- they were</p> <p>12 part-time. I don't know if it was 10 hours a</p> <p>13 week, 20, 15.</p> <p>14 Q. Was he also paid on an hourly</p> <p>15 basis or some other form of payment?</p> <p>16 A. Don was paid on -- on an</p> <p>17 estimated hourly basis and it was some figure</p> <p>18 per month, 600 or something like that.</p> <p>19 Q. Six hundred dollars or 600</p> <p>20 hours?</p> <p>21 A. \$600.</p> <p>22 Q. I'm sorry. I still didn't hear</p> <p>23 you. Dollars?</p> <p>24 A. Dollars.</p>	Page 29	Page 31
<p>1 Q. Okay. Thank you. Sorry.</p> <p>2 A. Okay.</p> <p>3 Q. Describe the machine that you</p> <p>4 had built for the trade show, please.</p> <p>5 MR. ROBERTS: Objection. Asked</p> <p>6 and answered May 2004. Go ahead.</p> <p>7 Q. Just briefly.</p> <p>8 A. Okay. It's a -- it's a -- I'm</p> <p>9 trying to think of the words to convey to you</p> <p>10 so that you'll understand --</p> <p>11 Q. I appreciate that.</p> <p>12 A. -- it's -- it's not an ordinary</p> <p>13 machine. It's a machine which holds parts</p> <p>14 and has a hopper and has a series of conveyor</p> <p>15 belts and it has a control box too and a</p> <p>16 platform to hold a robot and the parts. It</p> <p>17 circulates the parts into position for a</p> <p>18 robot, smaller robot, to pick the parts up</p> <p>19 and do whatever. Could be assembly or --</p> <p>20 Q. And what was the name of the</p> <p>21 trade show you were planning on taking the</p> <p>22 machine to?</p> <p>23 A. The Dayton Industrial Show.</p> <p>24 Q. Where is that held? In Dayton I</p>	Page 30	Page 32

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<p>1 think of anything on -- on your -- some of 2 your checks were -- which were not timely. 3 Q. But I'm saying timeliness aside, 4 and I know that you say some of them weren't 5 timely. Ultimately, as we sit here today, 6 you've been paid all the benefits other than 7 the waiver of premium benefits and whatever 8 interest is owed on those payments, is that 9 correct? 10 A. Eventually with the phone calls 11 and letters I received them at some point 12 during the month or the next month. 13 Q. So the answer's yes but you 14 don't believe they were timely paid. 15 A. I know they weren't timely paid, 16 yes. 17 Q. Yes. Okay. Did you continue to 18 develop this -- what do you call the machine 19 by the way is there a shorthand -- 20 A. I -- robotics vision feeder, 21 R-V-F. 22 Q. Had you prepared any marketing 23 materials relating to the robotics vision 24 feeder?</p>	<p>Page 33</p> <p>1 A. No. 2 Q. Once your benefits had been 3 paid, why did you not start developing the 4 RVF again? 5 A. Because I had to start paying 6 attorneys at that time to ward off DMS, 7 Jefferson-Pilot. 8 Q. Which attorneys are you talking 9 about? 10 A. Talking about Charles Melville 11 and Clint Miller. 12 Q. Anyone else? 13 A. Not that I -- not that I can 14 recall. 15 Q. At some point in time you 16 retained an attorney named John Spiegel in 17 Miami -- 18 A. Yes. 19 Q. -- correct? 20 A. That's correct. 21 Q. Did you pay him? 22 A. Did I pay him? 23 Q. Yes. 24 A. Did I pay him?</p>
<p>1 MR. ROBERTS: Objection. Vague. 2 Go ahead. 3 A. Yes, I have. 4 Q. What kind of marketing 5 materials? 6 MR. ROBERTS: Objection. Go 7 ahead. 8 A. A two-page brochure or just a 9 list of features. 10 Q. Was this a three color brochure 11 or just mimeographed sheets or -- if there's 12 such a thing. 13 A. It's a color something I did or 14 had done. It was on two pages and it was 15 color. 16 Q. When did you have that brochure 17 made? 18 A. I believe shortly before this 19 trade show. 20 Q. Do you still have copies of the 21 brochure? 22 A. I may. I don't know. 23 Q. After you closed the Red Bank 24 shop did you continue to develop the RVF?</p>	<p>Page 34</p> <p>1 Q. Yes. You said attorney's fees 2 were a problem for you. I want to know did 3 you pay John Spiegel for his work? 4 A. No. He -- he -- he said he was 5 going to bill me and he didn't. 6 Q. So you expected to pay -- 7 A. Paid to go down and see him. I 8 paid for a trip to Florida. 9 Q. Well, that was for your trip. 10 That didn't go into Mr. Spiegel's pocket to 11 your knowledge, did it? 12 A. No, but it came out of my pocket 13 which was money couldn't use on -- if I was 14 -- I wasn't capable of working anyway. 15 Q. Did you ever call Mr. Spiegel 16 and say you haven't sent me a bill? 17 MR. ROBERTS: Objection. You 18 don't need to answer that. It's 19 attorney/client privilege. Chris, you don't 20 need to answer that. 21 DEONENT: I'm not going to 22 answer it. 23 MR. ROBERTS: Okay. 24 DEONENT: It's kind of a smart</p>

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<p>1 question.</p> <p>2 MR. ROBERTS: Again.</p> <p>3 MR. MEAGHER: My questions</p> <p>4 aren't intended to be smart or insult you,</p> <p>5 Mr. Kearney. I'm just trying to get</p> <p>6 information.</p> <p>7 MR. ROBERTS: Well, the</p> <p>8 genuineness in that comment is -- is not</p> <p>9 something we necessarily agree with but,</p> <p>10 Chris, if he's being sarcastic to you, you</p> <p>11 just point it out, but as far as</p> <p>12 attorney/client question that he asked that</p> <p>13 he knows called for attorney/client</p> <p>14 communications, you don't answer that.</p> <p>15 DEPONENT: Yes. Right.</p> <p>16 Q. Did you expect to receive a bill</p> <p>17 from Mr. Spiegel for the work he performed on</p> <p>18 your behalf?</p> <p>19 MR. ROBERTS: Objection to the</p> <p>20 extent that calls for you to answer this</p> <p>21 question based on things you communicate</p> <p>22 between Mr. Spiegel and yourself, don't</p> <p>23 answer.</p> <p>24 DEPONENT: Yeah. I think that's</p>	<p>Page 37</p> <p>1 Q. So when the Red Bank shop closed</p> <p>2 Kenwood Technologies moved into your mother's</p> <p>3 basement, is that the location?</p> <p>4 A. The office did, yes, and</p> <p>5 equipment.</p> <p>6 Q. Was it a working shop in the</p> <p>7 basement?</p> <p>8 A. No.</p> <p>9 Q. It was like storage, you just</p> <p>10 put everything in there?</p> <p>11 A. No, I had my office there,</p> <p>12 Kenwood -- Kenwood Technology's office.</p> <p>13 Q. Describe the office to me. What</p> <p>14 did you have there in your mother's basement?</p> <p>15 A. Okay.</p> <p>16 Q. Okay.</p> <p>17 A. I had a desk, a computer table,</p> <p>18 a computer, fax machine, couple file</p> <p>19 cabinets, I had all the office supplies,</p> <p>20 paper, the pencils, etc., and I -- I think I</p> <p>21 had some -- some signs I had printed up for</p> <p>22 the trade show in that office as well.</p> <p>23 Q. At the time -- I'm sorry.</p> <p>24 A. That's not an all inclusive</p>
<p>1 attorney/client privilege.</p> <p>2 MR. MEAGHER: You're instructing</p> <p>3 him not to answer that question then,</p> <p>4 counsel?</p> <p>5 MR. ROBERTS: If he thinks that</p> <p>6 calls for attorney/client information to be</p> <p>7 disclosed then absolutely, counsel.</p> <p>8 Q. So because of the attorney's</p> <p>9 fees you were incurring in your fight with</p> <p>10 DMS and Jefferson-Pilot you were unable to</p> <p>11 continue developing the RVF, is that correct?</p> <p>12 MR. ROBERTS: Objection.</p> <p>13 A. No. I suffer from major</p> <p>14 depression and my depression was aggravated</p> <p>15 and accelerated during that time of having to</p> <p>16 move both my shop and my residence, which was</p> <p>17 just a one bedroom apartment, into my</p> <p>18 mother's basement or it was a shared home,</p> <p>19 but there was a whole lot to do to -- to just</p> <p>20 get all that and -- and at the same time I</p> <p>21 was being asked for thousands of pages of</p> <p>22 documents by DMS. I spent a lot of time at</p> <p>23 the photo copier as much as -- as I could. I</p> <p>24 was depressed.</p>	<p>Page 38</p> <p>1 list. I -- you know, that's some of the</p> <p>2 things that were there.</p> <p>3 Q. What happened to the RVF?</p> <p>4 A. The RVF went into the garage of</p> <p>5 the house or -- and the other equipment was</p> <p>6 put in storage.</p> <p>7 Q. Where was the storage located?</p> <p>8 A. In Wooster, Ohio.</p> <p>9 Q. Like did you -- did Kenwood</p> <p>10 Technologies rent a storage facility or</p> <p>11 something?</p> <p>12 A. Yes.</p> <p>13 Q. Do you remember the name of the</p> <p>14 storage facility?</p> <p>15 A. No. I can't remember their</p> <p>16 name.</p> <p>17 Q. Does Kenwood Technologies still</p> <p>18 have that facility?</p> <p>19 A. No.</p> <p>20 Q. When did they get rid of that</p> <p>21 facility?</p> <p>22 A. Somewhere in the 2002 or 2003.</p> <p>23 Q. Why?</p> <p>24 A. Well, I had to sell some of my</p>

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<p>1 Kenwood Technologies has no other employees 2 other than you currently, correct? 3 A. Correct. 4 Q. It hasn't since the closure of 5 the Red Bank office, is that fair to say? 6 A. That's fair to say. 7 Q. Is the machine still in the 8 garage, the RVF? 9 A. Yes, it is. 10 Q. Disassembled or assembled? 11 A. It's assembled to the degree as 12 I told you. The -- some of the shielding is 13 not on. 14 Q. So you had no purchase orders 15 for that machine. You were just getting 16 ready to show it, correct? 17 A. I had taken it to a previous 18 show and I had a lot of interest in it. I 19 had no purchase orders. 20 Q. Do you recall any of the people 21 or companies that showed interest at the 22 previous trade show? I take it that was 23 before November 2000? 24 A. Yes, it was before</p>	<p style="text-align: center;">Page 65</p> <p>1 other electrical engineers for designing 2 machines in the past three years? 3 A. No, I haven't. I've talked to 4 -- well, actually, you mentioned suppliers. 5 I can remember talking to one or two 6 electrical contractors in the Wooster area. 7 Q. When was the last time? 8 A. Probably when the lawsuit 9 started. 10 Q. Back in 2002? 11 A. You know, I'd have to refer to 12 my claim notes that -- I'd have to refer to 13 the notes that I sent in to you guys. 14 Q. You don't recall when the 15 lawsuit started? 16 MR. ROBERTS: Objection. 17 A. Oh, I do recall when the lawsuit 18 started because it was 4th of July -- 19 Q. In 2002? 20 A. -- 2002. 21 Q. Right. Do you currently feel 22 any restriction or limitation in your ability 23 to travel? 24 A. Yes, I do.</p>
<p>1 November 2000. Boston Scientific, Baxter 2 Healthcare, some of the big names in 3 pharmaceuticals. 4 Q. But since 2000 you have not made 5 any attempt to contact those companies, is 6 that correct? 7 A. That's correct. 8 Q. What was your role in the 9 manufacture of that machine you described, 10 the RVF? 11 A. My role was that I developed the 12 concept of that, did some crude drawings, 13 hand sketches and some crude CAD drawings and 14 had some assistance from Don Dayton to make 15 the drawings professional, and I designed the 16 machine with the help of Don Dayton. 17 Q. I'm sorry. You finished? 18 A. Yes. 19 Q. All of your design knowledge was 20 picked up on the job through life experience 21 rather than through any technical training 22 courses, is that correct? 23 A. That's correct. 24 Q. Have you collaborated with any</p>	<p style="text-align: center;">Page 66</p> <p>1 Q. Describe that for me, please. 2 A. Well, I had a heart attack two 3 weeks ago and I had stents, emergency surgery 4 or emergency angioplasty. I'm on multiple 5 drugs and I -- I'm supposed to right now to 6 be very restrictive. I had my wife drive me 7 down here. 8 Q. You attended a deposition taken 9 of one of your treating physicians in this 10 case after this angioplasty, is that correct? 11 A. That's correct. 12 Q. How far away was the location of 13 that deposition from your home? 14 A. About 20 minutes and my wife 15 drove me up to that as well. 16 Q. Did she also attend the 17 deposition? 18 A. No. 19 Q. How long was it? 20 A. The deposition? 21 Q. Yes. 22 A. It was about 25 minutes. 23 Q. How many days after your 24 angioplasty was the deposition?</p>

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<p>1 A. Six, maybe. 2 Q. Now, you were represented by 3 counsel at this deposition, correct? 4 A. No. That's the reason I went 5 because my -- I -- I couldn't afford to pay 6 Mike to come up there so he listened in by 7 phone, but I wanted to make sure that he 8 could -- there was a phone line available and 9 that he could object if -- if need be, so I 10 -- otherwise, I probably wouldn't have gone. 11 Q. But you were concerned that 12 Mr. Roberts might not be able to take care of 13 those issues? 14 A. Yes. My doctor didn't even have 15 a speaker phone. I had to provide my cell 16 phone and so -- 17 Q. Prior to the angioplasty. I'm 18 sorry. When did that occur? Do you have a 19 date for me? 20 A. June 1st, 2007. 21 Q. How long were you in the 22 hospital? 23 A. Four days. 24 Q. And, I'm sorry, you may have</p>	Page 69	<p>1 pain that would go away on the way and I'd 2 just turn around and come back but it 3 continued. And so the pain started in my 4 right shoulder and it was in this arm for 5 maybe an hour and then it spread, and in the 6 hospital they -- they wanted me to go home. 7 They gave me a shot of morphine and I -- they 8 gave me another shot of, I think, Demerol and 9 nothing worked and they -- but they, said, 10 well, it's not going to work right away or it 11 wouldn't take away all your pain. So twice 12 they asked me to go home and twice I said to 13 the doctor, I said, I can't go home this pain 14 is too severe. And then not too -- not too 15 long after that I was probably in the 16 emergency room two hours and then I started 17 getting pain in my left arm and I had -- and 18 I need -- I asked for antacids and I think 19 they finally recognized this is a heart 20 attack and did an EKG and then they started 21 rushing me around.</p> <p>22 Q. Since the inception of the 23 lawsuit in July 2002 and prior to your having 24 these symptoms that led to the angioplasty,</p>	Page 71		
		<p>1 told me the medications you're under? 2 MR. ROBERTS: For the heart or 3 all? 4 MR. MEAGHER: Heart. 5 A. The heart. I'll try, but 6 there's a drug called Zocor, there's a drug 7 called low -- Lowpre (sic), I believe, and 8 there's two -- two other drugs and I can't 9 recall their name. 10 Q. Prior to having the -- well, 11 what were your symptoms that led you to the 12 hospital or were you there for a checkup? 13 How did that occur? 14 A. I felt extreme pain in my right 15 shoulder which is already injured. My right 16 shoulder -- my rotator cuff is torn. I had 17 MRI on that and was scheduled for surgery, 18 which I hadn't gone through, and I had severe 19 pain in my right shoulder, very severe and I 20 thought it was my rotator cuff so I drove 21 myself to the hospital. It was two in the 22 morning and my wife would have taken me but 23 we have a young baby and -- or young child 24 and I just thought it was -- it might be some</p>	Page 70	<p>1 did you have restrictions and limitations in 2 your ability to travel? 3 MR. ROBERTS: Objection. Go 4 ahead. 5 A. Common sense restrictions, and I 6 had restrictions, limitations in that if I 7 traveled somewhere I knew that for a couple 8 days I would be totally unable to do anything 9 else. 10 Q. Why is that? 11 A. Fatigue. 12 Q. This is a physical -- physical 13 fatigue? 14 A. I don't -- well, I don't know. 15 It feels physical but it might be from my -- 16 from the major depression, I believe, 17 distress and -- 18 Q. Any other restrictions other 19 than -- I didn't understand what you meant by 20 common sense restrictions. 21 MR. ROBERTS: Is that a 22 question? 23 MR. MEAGHER: Yes. 24 Q. Please explain.</p>	Page 72

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1 and answered. Look at the deposition
2 transcript May 10, 2004, counsel.

3 MR. MEAGHER: I didn't get the
4 terms of the settlement of the Grote and I
5 would like to know what -- what it was.

6 Q. Did you pay them? Did they pay
7 you?

8 MR. ROBERTS: Objection.

9 Q. How did it end?

10 MR. ROBERTS: Relevance. How
11 does this relate to his claims that are
12 pending in this lawsuit, counsel? How?

13 MR. MEAGHER: I'm not going --

14 MR. ROBERTS: Do me a favor --

15 MR. MEAGHER: I don't need to
16 explain to it to you.

17 MR. ROBERTS: Okay. It's
18 irrelevant to the claims in this lawsuit,
19 it's been asked and answered, it's likely
20 subject to a confidentiality agreement.

21 MR. MEAGHER: I haven't heard
22 that at all.

23 Q. What was the settlement?

24 A. Well, it probably is like Mike

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1 said subject to --

2 MR. ROBERTS: Do you know one
3 way or the other? Can you sit here today and
4 say it's not confidential?

5 DEPONENT: No.

6 MR. ROBERTS: Okay. Then --

7 DEPONENT: It's 10 years ago.

8 MR. ROBERTS: -- then we're not
9 going to answer that question today. We'll
10 find that question out and we'll give your
11 answer in interrogatory.

12 MR. MEAGHER: Well, it's in
13 1997, is that when the settlement was?

14 MR. ROBERTS: So it's irrelevant
15 is what you're saying.

16 Q. Can you answer my question,
17 please?

18 A. I'm just thinking. It was '97
19 or '96 or '98.

20 Q. And you declared personal
21 bankruptcy when, in 1999?

22 A. No.

23 Q. When?

24 A. 1998 or '97.

1 Q. Did the Grote lawsuit play a
2 role in you declaring personal bankruptcy?

3 A. I'm sure it played some part in
4 it.

5 Q. Who was your attorney on the
6 Grote lawsuit?

7 A. Charles Melville.

8 Q. Is one of your claims in this
9 lawsuit that JP and/or DMS contacted
10 customers and damaged your business?

11 MR. ROBERTS: Objection. Asked
12 and answered. Go ahead.

13 A. I -- I don't know, you know, how
14 this formally we -- we hadn't even talked
15 about our bad faith claim, I think, because
16 we haven't got all the -- we haven't got all
17 the discovery from you, so we haven't made
18 all the -- put all the links together, but
19 what was your question again?

20 Q. As you sit here today, do you
21 believe that JP and/or DMS contacted
22 customers and damaged your business?

23 MR. ROBERTS: You're including
24 their vendors and agents in that question,

3
3

1 counsel? You including the surveillance
2 teams that were hired?

3 MR. MEAGHER: Well, I object to
4 coaching but --

5 MR. ROBERTS: I'm not coaching.
6 I just want to get your question clear. If
7 you want a correct answer, let's get the
8 question clear. Are you talking about Bob
9 Mills, William Hughes or are you talking
10 about the investigators they hired in
11 addition?

12 MR. MEAGHER: I am. Let me
13 rephrase it, maybe it'll get rid of the
14 objection.

15 Q. As you sit here today, do you
16 believe that JP and/or DMS or anyone acting
17 on their behalf contacted customers of your
18 business and damaged your business?

19 A. Absolutely.

20 Q. Who did they contact?

21 A. You have a list of the
22 companies. I don't recall off the top of my
23 head. Even my own principals. You burned my
24 bridges to any successful sales future if I

21 (Pages 81 to 84)

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<p>1 Q. And I think it was after your 2 initial session of your deposition that that 3 was produced to you. 4 A. Yes. 5 Q. So what happened with the 6 business relationship -- well, who were you 7 working for or as at the time of this 8 conversation with International Fine 9 Blanking? 10 A. I was working for -- with 11 Kenwood Technology Group. 12 Q. And what did International fine 13 Blanking do with Kenwood Technology Group? 14 A. Well, they started refusing me 15 opportunities to quote on other projects. 16 Q. So did you have any ongoing 17 projects with International Fine Blanking? 18 A. I think I already -- at the time 19 I had -- I had orders to fulfill. I don't 20 think that the orders were placed but the 21 lead time was -- was six, eight, 10 months 22 something like that. 23 Q. Did anyone tell you that it was 24 this conversation with the investigator that</p>	Page 89			<p>1 releases with regard to obtaining payment of 2 your benefits -- 3 MR. ROBERTS: Objection. 4 Q. -- correct? 5 MR. ROBERTS: Objection. Go 6 ahead. 7 A. When you say releases, what do 8 you mean, two different releases or one? 9 Q. Well, let's start broad. Any 10 releases. Did you sign any releases with 11 regard to the insurer's and DMS's ability to 12 investigate your claim? 13 MR. ROBERTS: Objection. 14 Misstating facts as to release of claims. Go 15 ahead. 16 A. I did sign a limited release 17 with Jefferson-Pilot almost every month and 18 then DMS forced me to sign a big broad 19 general authorization by -- by refusing to 20 pay my benefit until I signed it. 21 Q. So did you sign one? 22 MR. ROBERTS: Objection. Go 23 ahead. Asked and answered. 24 A. I signed it under duress.</p>	Page 91
<p>1 led to them refusing for you to be able to 2 submit proposals? 3 A. No, of course not. 4 Q. Did International Fine Blanking 5 work with Grote at all? 6 A. No, sir. 7 Q. Were they aware of that lawsuit? 8 A. I don't know. 9 (Exhibit 1 was marked for identification.) 10 Q. You stated that you believed 11 that DMS and JP had gone behind your back in 12 order to contact these people, is that 13 correct? 14 A. That's correct. 15 Q. You were aware that throughout 16 your claim that there was claims 17 investigations that would occur from time to 18 time on your claim? 19 MR. ROBERTS: Objection. Go 20 ahead. 21 A. When DMS took over there was 22 constant interaction, constant requests and I 23 had, you know, previously from JP a few. 24 Q. And, in fact, you signed</p>	Page 90			<p>1 Q. Did you contact any lawyer to 2 represent you at that time? 3 MR. ROBERTS: Objection. That 4 requires attorney/client privilege. 5 Q. I'm not asking about any 6 communication. I'm saying that since you 7 felt you were under duress what steps, if 8 any, did you take to protect yourself from 9 such actions? 10 MR. ROBERTS: As he recalls 11 today from 10 years ago? 12 MR. MEAGHER: Are you telling 13 him not to remember, counsel? Please. 14 MR. ROBERTS: Did you hear me 15 say that, counsel? I mean, your question 16 today in 2007 is the authorization he was 17 required to sign back in '97, '98 or is it 18 last month's authorization, which one? Do 19 you want a correct answer? 20 MR. MEAGHER: Do you have a 21 question? Do you have a question for me 22 because I don't have to answer his question 23 if he doesn't understand. 24 MR. ROBERTS: Okay. Well, your</p>	Page 92

23 (Pages 89 to 92)

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<p>1 professionalism is noted on the record.</p> <p>2 MR. MEAGHER: Yeah, I know that,</p> <p>3 counsel. You said --</p> <p>4 A. If you don't mind repeating.</p> <p>5 Q. I'll repeat it. That's fine,</p> <p>6 Mr. Kearney.</p> <p>7 A. Sure.</p> <p>8 Q. With regard -- you said you</p> <p>9 signed a release under duress --</p> <p>10 A. Yes.</p> <p>11 Q. -- and I'm saying what actions,</p> <p>12 if any, did you take to try to prevent that</p> <p>13 from occurring?</p> <p>14 A. I tried to contact</p> <p>15 Jefferson-Pilot but they wouldn't take my</p> <p>16 calls. They just referred me back to Robert</p> <p>17 Mills. I did have an attorney that I was</p> <p>18 speaking with to give me advice.</p> <p>19 Q. Who was that?</p> <p>20 A. I believe it was Clint Miller.</p> <p>21 Q. So at the time of your signing</p> <p>22 the DMS release you were represented by</p> <p>23 Mr. Miller?</p> <p>24 MR. ROBERTS: Objection.</p>	<p>Page 93</p> <p>1 MR. ROBERTS: No. I'm going to</p> <p>2 take a moment to look at these first.</p> <p>3 MR. MEAGHER: Well, you can't</p> <p>4 stop me from asking a question then you can</p> <p>5 say wait.</p> <p>6 MR. ROBERTS: Chris --</p> <p>7 MR. MEAGHER: Don't answer it.</p> <p>8 Fine.</p> <p>9 MR. ROBERTS: -- don't answer it</p> <p>10 until I'm done.</p> <p>11 DEPONENT: I've got to review it</p> <p>12 too but --</p> <p>13 MR. MEAGHER: Yeah, because I'm</p> <p>14 asking you a very specific question.</p> <p>15 A. Okay.</p> <p>16 Q. I'm not going to ask you to read</p> <p>17 every single thing. All I want to know is</p> <p>18 with regard to Plaintiff's Exhibit 1, which</p> <p>19 is a composite that I put together, can you</p> <p>20 take a look at the signatures that purport to</p> <p>21 be that of Christopher L. Kearney and tell me</p> <p>22 whether you believe any of them are not your</p> <p>23 signature?</p> <p>24 MR. ROBERTS: Hold on, Chris.</p>
<p>1 A. No.</p> <p>2 MR. ROBERTS: That's not what</p> <p>3 his testimony was. Go ahead.</p> <p>4 A. No. I was not represented by</p> <p>5 Mr. Miller. I consulted Mr. Miller.</p> <p>6 Q. Okay. Let me hand you composite</p> <p>7 Exhibit 1.</p> <p>8 A. Okay.</p> <p>9 Q. And could you please look</p> <p>10 through that document --</p> <p>11 MR. ROBERTS: Hold on. I want</p> <p>12 to review this document before the witness</p> <p>13 answers questions on it. You just handed him</p> <p>14 a 50-page document that I've not seen prior</p> <p>15 to the deposition.</p> <p>16 MR. MEAGHER: You have seen all</p> <p>17 these pages.</p> <p>18 MR. ROBERTS: Well, I want to</p> <p>19 make sure of that, do you mind, counsel?</p> <p>20 MR. MEAGHER: I've handed you a</p> <p>21 copy and that's fine.</p> <p>22 MR. ROBERTS: Thank you.</p> <p>23 MR. MEAGHER: Let me ask a</p> <p>24 question.</p>	<p>Page 94</p> <p>1 Don't answer that question until I tell you.</p> <p>2 DEPONENT: Are you --</p> <p>3 MR. ROBERTS: Chris.</p> <p>4 DEPONENT: Well, I wasn't going</p> <p>5 to answer but --</p> <p>6 MR. MEAGHER: Did you understand</p> <p>7 my question?</p> <p>8 MR. ROBERTS: Hold on a second,</p> <p>9 Chris.</p> <p>10 DEPONENT: No. I didn't know if</p> <p>11 you meant for me to read this whole 50</p> <p>12 pages --</p> <p>13 Q. No.</p> <p>14 A. -- or the first page.</p> <p>15 Q. I want you to look at -- I want</p> <p>16 you to look at each page and tell me whether</p> <p>17 the signature that purports to be that of</p> <p>18 Christopher L. Kearney, you, is actually your</p> <p>19 signature or you say, no, this is not my</p> <p>20 signature.</p> <p>21 A. Oh, you want me to look at each</p> <p>22 page. That's what I was asking you.</p> <p>23 Q. Yes. The signature pages.</p> <p>24 A. Fifty pages, okay. Start with</p>

24 (Pages 93 to 96)

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1 the first stage. These are my signatures.
 2 Q. Okay.
 3 A. Second page, that looks like my
 4 signature.
 5 Q. Yeah, my question actually was,
 6 tell me which one of these do you not believe
 7 is your signature? If you remain silent
 8 about it, we'll assume that your answer is it
 9 is your signature.
 10 A. Okay.
 11 Q. That way the court reporter
 12 doesn't have to work as hard.
 13 MR. ROBERTS: Chris, answer any
 14 way you want. If you need to affirm by
 15 saying each page, go ahead and do that.
 16 MR. MEAGHER: Well, I point out
 17 this is not your deposition, it's mine. I've
 18 asked him the question.
 19 MR. ROBERTS: That's fine.
 20 Point out whatever you want. Chris, if you
 21 want to do it your way, do it your way.
 22 MR. MEAGHER: It'll just take
 23 longer, and that's fine, we have all the time
 24 in the world.

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1 signature. 999, that appears to be my
 2 signature. 1001, that appears to be my
 3 signature. 1003, it appears to be my
 4 signature. 1005, it appears to be my
 5 signature. 1007, it appears to be my
 6 signature. 1009, appears to be my signature.
 7 2768, it appears to be my signature. 1011,
 8 it appears to be my signature. 1013 appears
 9 to be my signature. 1015 appears to be my
 10 signature. 1017, it appears to be my
 11 signature. 1019, it appears to be my
 12 signature. 1021, it appears to be my
 13 signature. 1030 appears to be my signature.
 14 1035 appears to be my signature. 1037, it
 15 appears to be my signature. 1040, it appears
 16 to be my signature. 1042, it appears to be
 17 my signature. 1045, it appears to be my
 18 signature. 1049, it appears to be my
 19 signature. 1051, it appears to be my
 20 signature. 1053 it appears to be my
 21 signature. 1056, it appears to be my
 22 signature. 1058, it appears to be my
 23 signature. 1060, it appears to be my
 24 signature. 1062 it appears to be my

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1 DEPONENT: Well, you know, I
 2 mean, your guys take forever reading through
 3 a 10 page document, to take 45 minutes.
 4 Q. Well, I'm just asking you about
 5 your signature --
 6 A. You're hurrying me up here --
 7 MR. ROBERTS: Chris, don't go to
 8 his level.
 9 DEPONENT: Okay.
 10 MR. ROBERTS: Just answer the
 11 question the way you desire.
 12 A. The second page is my signature.
 13 Q. If you want you can refer to the
 14 bates numbers --
 15 A. Okay.
 16 Q. -- at the bottom right-hand
 17 corner.
 18 A. Sure. 978, that's my signature.
 19 982, that's my signature. 984, it appears to
 20 be my signature. 988 is my signature. 993,
 21 that's my signature. 591 is my signature.
 22 589 seems to be the same page, it's my
 23 signature. 2797, that's my signature. 995,
 24 that's my signature. 97 -- 997, that's my

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1 signature. 1064 it appears to be my
 2 signature. 1066, it appears to be my
 3 signature. 1068, it appears to be my
 4 signature. 1070, it appears to be my
 5 signature. 1072, it appears to be my
 6 signature. 1074, it appears to be my
 7 signature. 1076, it appears to be my
 8 signature. 1078, it appears to be my
 9 signature. 1080, it appears to be my
 10 signature. 1082 appears to be my signature.
 11 1084, it appears to be my signature. 1086,
 12 it appears to be my signature. 1088, it
 13 appears to be my signature. 1090, it appears
 14 to be my signature. 1094, it appears to be
 15 my signature. I think these are all same --
 16 my doctor's statements each month. I made
 17 this many doctors statements. 1098 appears
 18 to be my signature. 1102, it appears to be
 19 my signature. 1103 A appears to be my
 20 signature. 1115, it appears to be my
 21 signature. 3120, it appears to be my
 22 signature, 118 -- 1118, 1118 A appears to be
 23 my signature. 1120 appears to be my
 24 signature. 3304 I signed this under duress.

25 (Pages 97 to 100)

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1 Q. Sir, does that appear to be your
2 signature on 3304?

3 A. It appears to be my signature.

4 MR. ROBERTS: Counsel, as you
5 know it's noon right now. I'm kind of
6 getting light headed. Can we get a break in
7 the next five or 10 minutes?

8 MR. MEAGHER: Sure. Let me just
9 finish this one line.

10 MR. ROBERTS: Five more minutes
11 before lunch?

12 MR. MEAGHER: I'll try.

13 MR. ROBERTS: Okay.

14 Q. Other than the International
15 Fine Blanking Company, any other customers
16 that you believe were improperly contacted
17 that cost you business?

18 A. International Fine Blanking was
19 my number one customer and one of only a few
20 with Kenwood Technology. Oh, I know another
21 one. Medical Safe Tech. You guys went up to
22 Indianapolis to question them.

23 Q. When did that occur?

24 A. When did they go up there?

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1 my claim, were trying to go back 10 years and
2 substantiate my back injury.

3 Q. Have you ever told anyone you
4 were disabled when you weren't?

5 A. I have ever told anybody I'm
6 disabled when I'm not disabled?

7 Q. Right.

8 A. No.

9 Q. And conversely, have you ever
10 told anyone you were not disabled when you
11 were actually disabled?

12 MR. ROBERTS: Objection.

13 A. That question never came up.

14 You know, I wouldn't -- nobody asked me are
15 you disabled. It was just a question -- it
16 was -- people don't ask you are you disabled.

17 Q. But you've never told anyone you
18 were not disabled when, in fact, you believed
19 you were disabled?

20 MR. ROBERTS: Objection. Vague.
21 Go ahead.

22 Q. Have you?

23 MR. ROBERTS: Objection. Go
24 ahead.

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1 Q. Yes.

2 A. It's in your surveillance files.

3 Q. Do you know when?

4 MR. ROBERTS: Objection. Asked
5 and answered.

6 A. Do I know when?

7 Q. Yes.

8 A. Yes, I know when.

9 Q. When was it?

10 A. 19 -- it was the year 2000.

11 Q. When did you learn --

12 A. I believe it was March 2000.

13 Q. When did you learn of that
14 contact?

15 A. I learned of that contact after
16 my deposition here.

17 Q. And what -- how do you quantify
18 the business you lost from Medical Safe Tech?

19 A. I don't quantify it.

20 Q. Did you have any existing
21 contracts with them?

22 A. Yes, I did, and apparently
23 that's where my original back injury occurred
24 and apparently you guys were -- disbelieved

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1 A. No. I would have told them the
2 truth.

3 MR. MEAGHER: Good place to
4 break for lunch?

5 MR. ROBERTS: Great.

6 VIDEOGRAPHER: Off the record.

7 MR. ROBERTS: Wait. Wait.

8 We're not off the record. Well, we're off
9 the video record. Go ahead.

10 VIDEOGRAPHER: Time is 12:03 and
11 29 seconds. We're off the record.

12 MR. ROBERTS: Earlier this --
13 this morning Mr. Ellis indicated that the
14 information I've been seeking for at least
15 eight months is in his possession. He
16 apparently has declined to produce it not
17 notwithstanding a November 2006 request and a
18 May 3, 2007 request and an e-mail request
19 last week that he completely ignored. It is
20 my understanding it's been in his possession,
21 he's just been ignoring my request for it.
22 Do you have that for me now, Mr. Ellis?

23 MR. ELLIS: I will have it
24 momentarily.